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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,979	04/16/2001	Michael McClary	04906.P076	7544

8791 7590 05/07/2003

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LOS ANGELES, CA 90025

EXAMINER
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NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

13

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

ppr

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/835,979	MCCLARY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian D Nguyen	2661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on the amendment filed 4/3/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-34 and 48-50 is/are allowed.
- 6) ☒ Claim(s) 1-31 and 35-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>10</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-2, 4, 6-7, 10-11, 35-36, 38, 40-41, and 44-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 5, and 8 of copending Application No. 09/835,474. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claimed invention are described in claims 2, 5, and 8 of copending Application with different wording and/or arrangement.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-31 and 35-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikemura (5,400,369) or Engbersen (6,058,119) in view of Allen et al (4,910,754).

Regarding claims 1-13, both Ikemura and Engbersen disclose a machine-readable medium that provide instructions which when executed by a set of processors, cause the set of processors to perform operations comprising receiving a first signal and second signal and simultaneously sync hunting the first signal with the first subset of the set of per-alignment state machines and the second signal with the second subset of the set of per-alignment state machines; and buffering the first and second set of states from the first and second subset of the set of per-alignment state machine; wherein the first and second signals have different formats (see abstract and claim 13 of Ikemura; abstract and col. 10, lines 15-18). Ikemura and Engbersen do not disclose initializing a first and second subset of a set of per-alignment state machines and updating the state. However, initializing and updating are well known in the art. Allen discloses initializing and updating (change the state) the state machines (see col. 2, lines 28-31 and col. 3, lines 52-55). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to initialize and update the state machine as taught by Allen in the system of Ikemura or Engbersen since these processes are necessary in synchronization.

Claims 14-31, these claims are apparatus claims that have substantially all the limitations of the respective instruction claims 1-13, thus is subject to the same rejection.

Claims 35-47, these claims are method claims that have substantially all the limitations of the respective instruction claims 1-13, thus is subject to the same rejection.

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***Allowable Subject Matter***

5. Claims 32-34 and 48-50 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-31 and 35-47 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

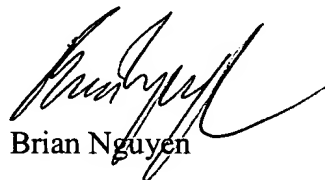
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

BN  
May 4, 2003

  
Brian Nguyen